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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Vadim R. Viviani et al.
Appl. No. : 09/993,874
Filed : November 14, 2001
For : NUCLEIC ACID MOLECULES
ENCODING RED AND GREEN
EMITTING LUCIFERASES
Examiner : SLOBODYANSKY, ELIZABETH
Group Art Unit : 1652

CERTIFICATE OF MAILING

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

March 17, 2005

(Date)

Katsuhiro Arai Reg. No. 43,315

PETITION UNDER 37 C.F.R. § 1.55(c)

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

APPLICANT HEREBY PETITIONS FOR ACCEPTANCE OF AN
UNINTENTIONALLY DELAYED CLAIM FOR FOREIGN PRIORITY UNDER 37 C.F.R.
§ 1.55(c).

The following claim for priority is of record, but contains an erroneous Italian application number:

This application is a continuation of U.S. application No. 09/516,958, filed March 1, 2000, now abandoned, which is a continuation-in-part of U.S. application No. 09/388,290, filed September 1, 1999, now abandoned, which claims priority to Italian application No. 5339, filed September 2, 1998.

03/22/2005 AWONDAF1 00000036 09993874

01 FC:1454 1370.00 OP

Processing Date: 04/20/2005 KALLEY
03/22/2005 AWONDAF1 00000036 09993874
01 FC:1454 -1370.00 OP
Applicant: 04/20/2005 KALLEY 00000036 09993874

Appl. No. : 09/993,874
Filed : November 14, 2001

The undersigned has recently discovered that Applicant erroneously identified the Italian priority claim. The time period set forth in 37 C.F.R. § 1.55(a) has expired. (The certified copy of the foreign application has not previously been filed.)

A grantable petition under 37 C.F.R. § 1.55(c) requires the following items:

- (1) The claim under 35 U.S.C. § 119(a)-(d) or 365(a) and 37 C.F.R. § 1.55;
- (2) The surcharge set forth in 37 C.F.R. § 1.17(t); and
- (3) A statement that the entire delay was unintentional.

1. Claim for foreign priority:

The undersigned submits the following claim for foreign priority under 35 U.S.C. § 119(a)-(b) and 37 C.F.R. § 1.55(c).

Application Number: IT1998000000195

Country: Italy

Filing Date: September 2, 1998

A certified copy of the Italian priority application and the surcharge set forth in 37 C.F.R. § 1.17(t) are submitted herewith.

The corrected declaration is also submitted herewith.

2. Petition fee:

\$1,370.00 (37 C.F.R. § 1.17(t)): The fee payment is enclosed.

3. Statement:

The entire delay between the date the claim was due under paragraph (a)(1) of 37 C.F.R. § 1.55 and the date the claim was filed was unintentional.

Appl. No. : 09/993,874
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This application has been allowed, and Applicant respectfully requests that the foreign priority claim in this application be timely amended to state the correct Italian application number set forth above.

Please charge any additional fees or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: March 17, 2005

By: Katsuhiro Arai
Katsuhiro Arai
Registration No. 43,315
Attorney of Record
Customer No. 20,995
(949) 760-0404

Enclosures:

- ☒ Fee Payment
- ☒ Certified Copy of Foreign Application
- ☒ Substitute Declaration
- ☒ Postcard

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UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND											
1 Date of Request: <u>4-19-05</u>		2 Serial/Patent # <u>09/993,874</u>									
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT							
	Filing			\$							
	Amendment			\$							
	Extension of Time			\$							
	Notice of Appeal/Appeal			\$							
/	Petition		3/2/05	\$ 1370							
	Issue			\$							
	Cert of Correction/Terminal Disc.			\$							
	Maintenance			\$							
	Assignment			\$							
	Other			\$							
7 TOTAL AMOUNT OF REFUND			\$ 1370								
8 TO BE REFUNDED BY:											
10 REASON:		Treasury Check									
	Overpayment	X	Credit Deposit A/C #:								
	Duplicate Payment		9 <table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 20px; text-align: center;">1</td><td style="width: 20px; text-align: center;">/</td><td style="width: 20px; text-align: center;">--</td><td style="width: 20px; text-align: center;">1</td><td style="width: 20px; text-align: center;">4</td><td style="width: 20px; text-align: center;">1</td><td style="width: 20px; text-align: center;">0</td></tr></table>		1	/	--	1	4	1	0
1	/	--	1	4	1	0					
/	No Fee Due (Explanation):										
<i>unnecessary</i>											
11 REFUND REQUESTED BY:											
TYPED/PRINTED NAME: <u>WAN Layman</u>		TITLE: <u>Pat. Exam.</u>									
SIGNATURE: <u>Wan Layman</u>		PHONE: _____									
OFFICE: _____											
***** THIS SPACE RESERVED FOR FINANCE USE ONLY: *****											
APPROVED: <u>Alvin Kell</u>		DATE: <u>4/20/05</u>									

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